

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 92-206-T - ORDER NO. 92-661 ✓
AUGUST 17, 1992

IN RE: Application of Wills Trucking, Inc.,) ORDER
3185 Columbia Road, Richfield, Ohio) DENYING
44286, for a Class E Certificate of) APPLICATION
Public Convenience and Necessity.)

This matter comes before the Public Service Commission of South Carolina (the Commission) by way of an Application filed by Wills Trucking, Inc. (the Applicant, Wills, or the Company) on April 8, 1992, for a Class E Certificate of Public Convenience and Necessity to transport:

WASTE PRODUCTS AND MATERIALS OF ANY KIND WHATSOEVER, INCLUDING, BUT WITHOUT LIMITATION, HAZARDOUS WASTE, NON-HAZARDOUS WASTE, INDUSTRIAL WASTE, SOLID WASTE, SEMISOLID WASTE, GASEOUS WASTE, LIQUID WASTE, INFECTIOUS WASTE, TRADE WASTE, AND GASEOUS LIQUID: Between points and places in South Carolina.

The Commission's Executive Director instructed the Applicant to publish a prepared Notice of Filing in newspapers of general circulation in the affected areas. The purpose of the Notice of Filing was to inform interested parties of the Application and the manner and time in which to file appropriate pleadings for participation in the proceeding. The Applicant complied with this instruction and provided the Commission the proof of publication of the Notice of Filing. Petitions to Intervene were received from the following: Environmental Services Corporation, Laidlaw

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Environmental Services, and Southern Bulk Haulers.

A hearing was held on July 30, 1992, at 10:30 a.m. in the Commission's Hearing Room, with the Honorable Rudolph Mitchell, Vice-Chairman, presiding. The Applicant was represented by Rex L. Carter, Esquire, and Mitchell M. Willoughby, Esquire. The Intervenor Environmental Services Corporation was represented by Brett A. Hickman, Esquire, and the Intervenor Laidlaw Environmental Services was represented by Robert T. Bockman, Esquire, and Rita Secreast-Doll, Esquire. The Intervenor Southern Bulk Haulers did not appear at the hearing. The Commission Staff was represented by F. David Butler, Staff Counsel.

The Applicant presented the testimony of six witnesses: Robert Underation, Director of Safety for the Applicant; Robert D. (Joe) Causby, Terminal Manager for the Columbia, South Carolina terminal of Wills Trucking, Inc.; Tom Huett, Vice President and Chief Financial Officer of Enviro-Chem, Inc.; Robert Cottam, President of ENSCI Corporation; Don Dicus, President of Resource Management, Inc.; and Gary Watters, General Manager of N.W. White Company. The Intervenor, Environmental Services Corporation, presented the testimony of Pink G. Frady, Jr., of Travelers Rest, President of Environmental Services Corporation, the testimony of Lynn Ballard of Evo-Tanner Industries, and of Donald G. Boan, Jr., Vice President of Transportation for Bryson Industrial Services. The Intervenor, Laidlaw Environmental Services presented the testimony of James Thomas Griffin. The Commission Staff presented no witnesses.

The Applicant presented the testimony of Robert Underation and Robert D. (Joe) Causby, who testified to the Company's fitness, willingness and ability to appropriately perform the proposed service. Underation and Causby discussed the equipment owned and leased by the Company, insurance carried on vehicles, the financial status of the Company, the location of various states where Wills Trucking, Inc. is licensed, and a number of other related matters, including the Company's U.S. Department of Transportation safety record.

Wills also presented the testimony of four shipper witnesses. Tom Huett, Vice President and Chief Financial Officer of Enviro-Chem, Inc. stated that, since Environmental Services Corporation and Laidlaw Environmental Services had the potential for being direct competitors to his Company, Enviro-Chem is in need of an independent trucking company for transportation of its hazardous wastes. Huett, therefore, supported the Application of Wills. On cross-examination by the attorney for Environmental Services Corporation, however, Huett admitted that Southern Bulk Haulers, who is already certificated for intrastate work in South Carolina, was a possible solution to his needs.

Robert Cottam of ENSCI Corporation noted that his company subcontracted seventy (70%) percent of its intrastate transportation of hazardous wastes, and that it would be helpful to have an independent trucking company like Wills available for that transportation.

Don Dicus, President of Resource Management, Inc., testified

that he did business with Wills on an interstate basis. Dicus found Wills' equipment to be clean and satisfactory, Wills' drivers to be courteous and well-trained, and the Company's service to be better than satisfactory. Dicus noted that the granting of Wills' Application would help meet his company's needs for intrastate hauling of hazardous wastes.

Gary Watters of N.W. White noted that his company was a local intrastate carrier of general commodities. Although Watters stated that he supported Will's Application, since he believed that more trucks were needed to transport hazardous wastes, he admitted on cross-examination that the needs he was familiar with involved non-hazardous ground soil, formerly located around old in-ground gas tanks, not hazardous wastes.

The Intervenor, Environmental Services Corporation and Laidlaw Environmental Services presented testimony concerning the status of service with regard to hazardous wastes. The Intervenor witnesses stated that they believed that the public convenience and necessity in the area of hauling of hazardous waste is already being served, in that both Environmental Services Corporation and Laidlaw Environmental Services and other certificated carriers have, in their opinion, adequate equipment and personnel to serve the existing need in South Carolina. Further, the witnesses pointed out a dwindling market for the transportation of hazardous wastes.

Pink G. Frady, Jr., President of Environmental Services Corporation, noted that most hazardous waste sites have been

cleaned up and moved. Further, there are new regulations requiring waste generators to reduce the amount of hazardous wastes shipped off-site.

Donald G. Boan, Jr., Vice President of Transportation of Bryson Industrial Services stated that his business with regard to the hauling of hazardous wastes has dropped drastically, and that a drastic decline in business has occurred over the last year. Bryson's fleet size has dropped from 24 vehicles to 15 vehicles in a year. Boan sees no increase occurring in his business.

James T. Griffin of Laidlaw also pointed out that the market for the hauling of hazardous wastes is decreasing in South Carolina, due in part, to waste minimization programs. Griffin opined that there are enough carriers at present to meet the needs of customers in this area, especially since much of the delay in pickup of wastes from shippers is due to problems in scheduling deliveries to disposal sites.

This matter is governed by R.103-134 which states that:

For common carrier authority,

an application for a certificate or to amend a certificate to operate as a common carrier by motor vehicle may be approved upon a showing that the applicant is fit, willing, and able to appropriately perform the proposed service, provided, however, if an intervenor shows or if the Commission determines that the public convenience and necessity is already being served, the Commission may deny the application.

The regulation goes on to discuss the criteria for a determination of whether or not an applicant is fit, willing, and able to provide the service proposed.

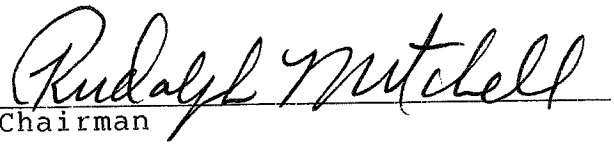
Upon consideration of this matter, the Commission believes that the public convenience and necessity, with regard to this area is already being well served by the existing intrastate carriers. The Intervenor has shown that a dwindling market exists for the services proposed to be performed on an intrastate basis by Wills, and that an excess of equipment is presently available. Therefore, the Commission believes that it must deny the Application.

IT IS THEREFORE ORDERED:

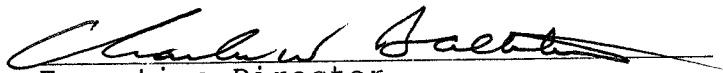
1. That the relief sought in the Application for a Class E Certificate of Public Convenience and Necessity is hereby denied, due to the fact that the public convenience and necessity is already being served.

2. That this Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


VICE Chairman

ATTEST:


Executive Director
(SEAL)